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Letter dated 24 March 2005 from the Secretary-General to the President of the Security Council

I have the honour to transmit herewith the report of the Mission of Inquiry into the Circumstances, Causes and Consequences of the 14 February Beirut Bombing, which was prepared pursuant to the statement by the President of the Security Council (S/PRST/2005/4) of 15 February 2005.

This independently conducted fact-finding report presented to the Council today raises some very serious and troubling allegations. The Mission concludes that an independent international investigation is needed.

I endorse the Mission's recommendation that such an investigation be established. The aim would be to reach conclusions as complete as possible about who was responsible for the assassination of Mr. Hariri and the deaths of 19 others.

I wish to thank Mr. Peter FitzGerald, head of the Mission, and the members of his team, for producing the report.

I should be grateful if you would bring this matter to the attention of the members of the Council. Meanwhile, I am also transmitting the report to the Government of Lebanon.

Lebanon is passing through a difficult and sensitive period. It is imperative that all concerned should behave with the utmost restraint. The future of Lebanon should be decided strictly through peaceful means.

(*Signed*) Kofi A. **Annan**

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Report of the Fact-finding Mission to Lebanon inquiring into the causes, circumstances and consequences of the assassination of former Prime Minister Rafik Hariri

(25 February-24 March 2005)

Executive summary

On 14 February 2005, an explosion in downtown Beirut killed 20 persons, among them the former Prime Minister, Rafik Hariri. The United Nations Secretary-General dispatched a Fact-finding Mission to Beirut to inquire into the causes, the circumstances and the consequences of this assassination. Following its arrival in Beirut on 25 February, the Mission met with a large number of Lebanese officials and representatives of different political groups, performed a thorough review of the Lebanese investigation and legal proceedings, examined the crime scene and the evidence collected by the local police, collected and analysed samples from the crime scene, and interviewed some witnesses in relation to the crime.

The specific "causes" of the assassination of Mr. Hariri cannot be reliably asserted until after the perpetrators of this crime are brought to justice. However, it is clear that the assassination took place in a political and security context marked by acute polarization around the Syrian influence in Lebanon and the failure of the Lebanese State to provide adequate protection for its citizens.

Regarding the circumstances, the Mission is of the view that the explosion was caused by a trinitrotoluene (TNT) charge of about 1,000 kilograms placed most likely above the ground. The review of the investigation indicates that there was a distinct lack of commitment on the part of the Lebanese authorities to investigating the crime effectively, and that this investigation was not carried out in accordance with acceptable international standards. The Mission is also of the view that the Lebanese investigation lacks the confidence of the population necessary for its results to be accepted.

The consequences of the assassination could be far-reaching. It seems to have unlocked the gates of political upheavals that were simmering throughout the last year. Accusations and counter-accusations are rife and aggravate the ongoing political polarization. Some accuse the Syrian security services and leadership of assassinating Mr. Hariri because he became an insurmountable obstacle to their influence in Lebanon. Syrian supporters maintain that he was assassinated by "the enemies of Syria"; those who wanted to create international pressure on the Syrian leadership in order to accelerate the demise of its influence in Lebanon and/or start a chain of reactions that would eventually force a "regime change" inside the Syrian Arab Republic itself. Lebanese politicians from different backgrounds expressed to the Mission their fear that Lebanon could be caught in a possible showdown between the Syrian Arab Republic and the international community, with devastating consequences for Lebanese peace and security.

After gathering the available facts, the Mission concluded that the Lebanese security services and the Syrian Military Intelligence bear the primary responsibility for the lack of security, protection, and law and order in Lebanon. The Lebanese security services have demonstrated serious and systematic negligence in carrying out the duties usually performed by a professional national security apparatus. In

doing so, they have severely failed to provide the citizens of Lebanon with an acceptable level of security and have therefore contributed to the propagation of a culture of intimidation and impunity. The Syrian Military Intelligence shares this responsibility to the extent of its involvement in running the security services in Lebanon.

It is also the Mission's conclusion that the Government of the Syrian Arab Republic bears primary responsibility for the political tension that preceded the assassination of the former Prime Minister, Mr. Hariri. The Government of the Syrian Arab Republic clearly exerted influence that went beyond the reasonable exercise of cooperative or neighbourly relations. It interfered with the details of governance in Lebanon in a heavy-handed and inflexible manner that was the primary reason for the political polarization that ensued. Without prejudice to the results of the investigation, it is obvious that this atmosphere provided the backdrop for the assassination of Mr. Hariri.

It became clear to the Mission that the Lebanese investigation process suffers from serious flaws and has neither the capacity nor the commitment to reach a satisfactory and credible conclusion. To uncover the truth, it would be necessary to entrust the investigation to an international independent commission, comprising the different fields of expertise that are usually involved in carrying out similarly large investigations in national systems, with the necessary executive authority to carry out interrogations, searches and other relevant tasks. Furthermore, it is more than doubtful that such an international commission could carry out its tasks satisfactorily — and receive the necessary active cooperation from local authorities — while the current leadership of the Lebanese security services remains in office.

It is the Mission's conclusion that the restoration of the integrity and credibility of the Lebanese security apparatus is of vital importance to the security and stability of the country. A sustained effort to restructure, reform and retrain the Lebanese security services will be necessary to achieve this end, and will certainly require assistance and active engagement on the part of the international community.

Finally, it is the Mission's view that international and regional political support will be necessary to safeguard Lebanon's national unity and to shield its fragile polity from unwarranted pressure. Improving the prospects of peace and security in the region would offer a more solid ground for restoring normalcy in Lebanon.

I. Introduction

1. On 14 February 2005, an explosion in downtown Beirut killed 20 persons, among them the former Prime Minister, Rafik Bahaa-Edine Hariri. Also killed in the explosion were Yahya Mustafa Al-Arab, Mohammad Ben Saad-Eddine Darwish, Talal Nabeeh Nasser, Ziad Mohammad Tarraf, Omar Ahmad Al-Masri, Mohammad Riad Hussein Ghalayeeni, Mazen Adnan Al-Dahabi, Yamama Kamel Dhamen, Haitham Khaled Osman, Alaa Hasan Osfur, Zahi Haleem Abu Rujayli, Joseph Emile Aoun, Rima Mohammad Ra'ef Bezi, Ruad Hussein Haidar, Sobhi Mohammad Al-Khedhr, Abdu Tawfik Bu Farah, Abdel-Hameed Mohammad Ghalayeeni, Mahmud Saleh Al-Khalaf and Mohammad Saleh Al-Hamad Al-Mohammad. In addition to those killed, there is one person, Farhan Ahmad Al-Isa, who is still missing and believed to be among the victims. Another 220 persons were injured.

2. On 15 February, the President of the Security Council had issued a statement on behalf of the Council requesting the Secretary-General "to follow closely the situation in Lebanon and to report urgently on the circumstances, causes and consequences of this terrorist act". The Secretary-General announced on 18 February that he was sending a Fact-finding Mission to Beirut to gather such information as was necessary for him to report to the Council in a timely manner. After an exchange of letters between the Secretary-General and the President of Lebanon, a mission comprising Peter FitzGerald, a Deputy Commissioner of the Irish Police, Garda Siochána, and two police investigators, a legal adviser and a political adviser was sent to Lebanon to gather facts about the causes, circumstances and consequences of the assassination. The Mission was headed by Mr. FitzGerald. Additional experts in explosives, ballistics, DNA and crime scene examination were brought in on 6 March, in agreement with the Lebanese authorities, to examine the crime scene and the samples collected from it.

3. Following its arrival in Beirut on 25 February, the members of the Fact-finding Mission (hereinafter referred to as "the Mission") met with a large number of Lebanese officials and representatives of different political groups, performed a thorough review of the Lebanese investigation and legal proceedings, examined the crime scene and the evidence collected by the local police, collected and analysed samples from the crime scene, and interviewed some witnesses in relation to the crime. Since some of the persons interviewed by the Mission requested anonymity, the present report does not include a full list of the interviewees. The Mission concluded its inquiry in Lebanon on 16 March 2005. This report includes its findings and recommendations.

II. Findings

4. The findings of the Mission fall within three categories as defined by the Security Council: causes, circumstances and consequences.

A. Causes

5. The specific "causes" for the assassination of Mr. Hariri cannot be reliably asserted until after the perpetrators of this crime are brought to justice. However, it is clear that the assassination took place in a political and security context marked

by acute polarization around the Syrian influence in Lebanon and the failure of the Lebanese State to provide adequate protection for its citizens.

The political context

6. Lebanon has repeatedly served as a battleground for the parties to the Arab-Israeli conflict, with devastating impact on its national unity and independence, as demonstrated by its tragic civil war (1975-1990) and by various military campaigns on its soil. The Syrian Arab Republic had maintained a military presence in Lebanon since May 1976 with the consent of the Lebanese Government. It also exerted political influence in Lebanese affairs, an influence that has significantly increased since 1990 and was sanctioned in 1991 by a treaty of "Brotherhood, Cooperation and Coordination".

7. The Syrian presence in Lebanon remained generally unchallenged until Israel withdrew its forces from South Lebanon in 2000. Political figures started to voice their opposition to the continued Syrian influence and called for the implementation of the remaining provisions of the Taif Agreement (of 1989), which, if implemented, would have substantially reduced the Syrian presence in Lebanon to a possible complete pull-out. Although Mr. Hariri carefully avoided this debate, his relations with President Emil Lahoud, who is generally described as the favourite of the Syrian Arab Republic, were strained. As a prominent security official close to the Syrian Arab Republic put it to the Mission, the two men had had repeated conflicts during Mr. Hariri's term (2000-2004) to a point that required "external intervention and mediation on a daily basis". The conflict between Mr. Lahoud and Mr. Hariri affected the latter's ability to run the Government and to carry out his policies, sometimes to the point of paralysis. Mr. Hariri's difficulties with Mr. Lahoud were widely interpreted as a sign of the Syrian Arab Republic's mistrust of the former.

8. Mr. Lahoud's term in office should have ended in 2004, with no possibility of renewal according to the Constitution. Mr. Hariri was clearly hoping that the end of Mr. Lahoud's term would enable him to regain control over his Government. However, during 2004, certain voices in Lebanon suggested amending the Constitution in order to extend the term of Mr. Lahoud. This possibility became part of the debate over the Syrian presence in Lebanon and fuelled it further. Given the distribution of seats in the Parliament, a constitutional amendment required the support of Mr. Hariri's bloc, a support he was unprepared to lend. Moreover, the Mission was informed by reliable sources that Mr. Hariri had managed to obtain a commitment from the Syrian leadership not to extend Mr. Lahoud's term.

9. However, the Syrian leadership later decided to support an extension of the presidential term, albeit for three instead of six years. The pressure for the extension was considerable and divisive and had far-reaching consequences. As a Lebanese official close to the Syrian leadership told the Mission, the Syrian decision had sent a clear message to Mr. Hariri that he had to go: "There was no way the two of them could work together." Mr. Hariri met with President Bashar Assad in Damascus in a last attempt to convince him not to support the extension. The Mission has received accounts of this meeting from various sources inside and outside Lebanon, all of which claim to have heard the account of the meeting from Mr. Hariri himself shortly after the meeting took place. The Mission has no account of the meeting from Mr. Assad's side: the Syrian authorities declined the Mission's request to meet with him. The received testimonies corroborated each other almost verbatim.

10. According to these testimonies, Mr. Hariri reminded Mr. Assad of his pledge not to seek an extension for Mr. Lahoud's term, and Mr. Assad replied that there had been a policy shift and that the decision was already taken. He added that Mr. Lahoud should be viewed as his personal representative in Lebanon and that "opposing him is tantamount to opposing Assad himself". He then added that he (Mr. Assad) "would rather break Lebanon over the heads of (Mr.) Hariri and (Druze leader Walid) Jumblatt than see his word in Lebanon broken". According to the testimonies, Mr. Assad then threatened both Mr. Hariri and Mr. Jumblatt with physical harm if they opposed the extension for Mr. Lahoud. The meeting reportedly lasted for 10 minutes, and was the last time Mr. Hariri met with Mr. Assad. After that meeting, Mr. Hariri told his supporters that they had no other option but to support the extension for Mr. Lahoud. The Mission has also received accounts of further threats made to Mr. Hariri by security officials in case he abstained from voting in favour of the extension or "even thought of leaving the country".

11. On 2 September 2004, the Security Council had adopted its resolution 1559 (2004), which, among other provisions, called upon "all remaining foreign forces to withdraw from Lebanon" and declared "its support for a free and fair electoral process in Lebanon's upcoming presidential elections conducted according to Lebanese constitutional rules devised without foreign interference or influence". It is widely believed, inside and outside Lebanon, that Mr. Hariri lent active support to this resolution. Numerous sources in Lebanon informed the Mission that the Syrian leadership had held Mr. Hariri personally responsible for the adoption of the resolution, and that this resolution marked the end of whatever trust existed between the two sides. On 3 September, the vote on the extension was brought to the Parliament. Mr. Hariri and his parliamentarian bloc voted in its favour. Three ministers voted against it, among them Marwan Hemadeh, a close associate of both Mr. Hariri and Mr. Jumblatt. The amendment was passed, and Mr. Lahoud's term was extended for three years. On 9 September, Mr. Hariri announced his resignation.

12. Political tension reached a new height with that resignation. Additional numbers of political figures joined what later became labelled the "opposition", which mainly called for a review of Syrian-Lebanese relations. Some of the opposition leaders preferred to review these relations in line with Security Council resolution 1559 (2004), while others preferred to review them under the banner of the Taif Agreement. The upcoming legislative elections were widely seen as a turning point and it became apparent to all that the parties were preparing for a final showdown. Until the extension for Mr. Lahoud, the opposition was mainly composed of Christian politicians and groups. The decision by Mr. Jumblatt's bloc to join forces with them was a major development insofar as it expanded the opposition coalition beyond the sectarian dividing lines, especially in light of Mr. Jumblatt's traditional alliance with the Syrian Arab Republic. Mr. Hariri's resignation added more strength to the opposition by bringing in the large and influential Sunni community.

13. On 2 October, former Minister Marwan Hemadeh narrowly escaped death when a bomb exploded next to his car. His guard was killed in the explosion. The attempt on Mr. Hemadeh's life sent shock waves throughout Lebanon and added to the ongoing polarization. The perpetrators of the assassination attempt were not identified, and a general feeling prevailed that they would not be. A loaded atmosphere dominated the Lebanese scene in which "everyone was under threat", as many security officials told the Mission. A wide range of people, inside and outside

Lebanon, told the Mission that Mr. Hariri and Mr. Jumblatt had feared for their lives and saw the attempt on Mr. Hemadeh's life as a part of the ongoing power struggle with the Syrian leadership.

14. Amid the heightened tension, the consolidation of the opposition coalition continued, as well as the preparations for the upcoming legislative elections. Contacts and negotiations took place between Mr. Jumblatt and Mr. Hariri and with the exiled Maronite leader Mr. Michel Aoun. By the end of January 2005, there was a formidable power bloc emerging in Lebanon, bringing together, for the first time, representatives of almost all political and religious communities, with the noted exception of the Shi'ite groups Amal and Hizbollah. This power bloc was independent from, if not hostile to, the Syrian influence and seemed confident of winning a clear majority in the upcoming elections. It also enjoyed the support of key players in the international community and seemed confident of its ability to force the Syrian Arab Republic to implement its outstanding commitment under the Taif Agreement and/or Security Council resolution 1559 (2004). At the centre of this power bloc one man stood as its perceived architect: the former Prime Minister, Rafik Hariri. On 14 February, he was assassinated.

15. Clearly, Mr. Hariri's assassination took place against the backdrop of his power struggle with the Syrian Arab Republic, regardless of who carried out the assassination and with what aim. It is nonetheless important to keep in mind that only a proper investigation — not political analysis — could lead to the identification of those who had ordered, planned and carried out this heinous crime. It would be a violation of the basic principles of justice to jump to conclusions about the perpetrators of the assassination without proper investigation, convincing evidence and a proper trial.

The security background

16. Mr. Hariri was unanimously described to the Mission as the "most important figure in Lebanese public life". His assassination, therefore, begs the question of the level of protection provided to him by the Lebanese security apparatus. The Lebanese security system is composed of multiple agencies. The Military Intelligence occupies a primary position in this set-up: it covers areas of national security, counter-espionage, counter-terrorism and a strike force. It also includes a department for communications interception. "General Security" covers areas related to foreigners, passports and borders, in addition to politically based security issues. An "Internal Security Force" includes both a police force and an information-gathering department. "State Security" is nominally responsible for politically based security issues. The Republican Guard is mandated with protecting the President, under the overall authority of the commander of the Army. The Syrian Military Intelligence maintains a branch in Lebanon, with offices in various places including Beirut. Contrary to the affirmations made to the Mission by its chief, evidence and concurrent testimonies lead us to believe beyond reasonable doubt that this branch played a key role in Lebanese political life and had an active involvement in, if not direct supervision of, the management of security affairs in Lebanon.

17. According to rules and regulations in place, these different agencies coordinate with each other and are all members of a Central Security Council which meets once a month under the Chairpersonship of the Minister of the Interior. However,

numerous sources, including security officials, ministers and former Presidents, told the Mission that the practice follows a different pattern. First, coordination among agencies is almost non-existent; the said Council is more a formality than a coordinating mechanism. Second, reporting lines follow personal and political loyalties rather than constitutional arrangements. Heads of security agencies report the substantive information to "those who appointed them, to whom they have loyalty", assigning only formalities and trivial issues to the Central Security Council. In addition, there is a severe lack of oversight and/or judicial review of the work of security agencies. For instance, the "communication interception" department in Military Intelligence has "standing authorization" to intercept whatever communication is deemed relevant by the department, with the sole endorsement of the head of the agency, without any kind of external oversight or review. Similarly, it is apparent that there is very little, if any, accountability other than that based on informal and extra-constitutional loyalties.

18. This set-up partly explains the lack of trust the Lebanese people seem to have in their security agencies. Almost without exception, all those who spoke to the Mission, including some security officials, expressed doubts about the capacity and/or the will of the security agencies to provide security to political figures under threat. While some accused the security apparatus of outright involvement in threatening politicians, others said that the dominant culture was one in which politicians were expected to protect themselves by their own means or where, at best, the security agencies did not have enough clout to protect the threatened. Many pointed to the fact that Lebanon had witnessed a great number of political assassinations over the previous 30 years and that most of them remained unsolved to date.

19. After discussions with many security officials, including the heads of Military Intelligence, the "Special Forces and Counter-terrorism" department of Military Intelligence, the communication interception department in Military Intelligence, General Security, the Internal Security Forces, and the Republican Guard, the Mission came to the conclusion that there had been a serious failure on the part of the Lebanese security apparatus to predict and prevent the assassination of Mr. Hariri. Despite widespread rumours of threats of physical harm against Mr. Hariri and/or Mr. Jumblatt, including the possibility of attempts on their lives and/or the life of members of their families, and despite the attempt on the life of former Minister Marwan Hemadeh, none of the security services had taken additional measure to protect any of them.

20. All of the security services denied having received information of a threat or a possible threat to Mr. Hariri, Mr. Jumblatt or any members of their families. However, everyone else outside the security services who talked to the Mission seemed aware of those threats. In addition, despite the acknowledged heightened tension, none of the security agencies had prepared an "assessment profile" regarding the security of Mr. Hariri, "the most important political figure in Lebanon". None of the security agencies had suggested or advised that the level of protection provided to Mr. Hariri be raised nor did they attempt this. Quite the contrary: the close protection team provided to Mr. Hariri by the Internal Security Forces was reduced from approximately 40 to 8 persons shortly after he had left office. Although this reduction was in line with the regulations, it still constituted stark negligence in respect of the special circumstances at hand. At the moment of

his assassination. Mr. Hariri's protection was ensured almost entirely by his private security team.

21. When the Mission discussed this aspect with Lebanese security officials, many of them argued that "prevention" was an alien concept to the security management in Lebanon. This argument is inadmissible: prevention is an integral and important part of any functioning security system. In addition, the argument is also untrue: the Republican Guard informed us that they maintained periodic "assessment profiles" regarding the security of the President, including evaluating the level of threat and risk he was subject to based on their reading of the political situation, rumours and the overall security situation. A functioning, credible and professional security apparatus should have prepared, maintained and updated a similar assessment profile in regard to the security of "the most important political figure in Lebanon".

22. Based on the above, it is the view of the Mission that the Lebanese security apparatus failed to provide proper protection for Mr. Hariri and therefore provided a convenient context for his assassination.

B. Circumstances

23. In gathering the facts related to the circumstances, the Mission identified the last movements of Mr. Hariri immediately before the assassination took place, determined the origin of the explosion and the type and weight of explosive used, and reviewed the main avenues of the investigation undertaken by the Lebanese authorities based on accepted international standards. The review of the investigation included the critical areas of: the management of the crime scene; the preservation of evidence; the investigation of the claim of responsibility for the attack broadcast on the television network Al-Jazeera; the investigation of the suspect bomber; the investigation of the suspect vehicle; and general remarks on the investigation's integrity.

The last movements of Mr. Hariri

24. On Monday, 14 February 2005, at approximately 1230 hours, Mr. Hariri left the Parliament building in central Beirut and walked approximately 70 metres to a cafe (Place de l'Etoile) in Nejmeh Square, where he met with a number of people. At approximately 1250 hours he left the cafe accompanied by former Minister and member of Parliament Bassil Fuleihan. His security convoy consisted of six vehicles; first, a jeep with four local policemen (the lead vehicle); second, a black Mercedes with three private security guards; third, a black armour-plated Mercedes driven by Mr. Hariri accompanied by Mr. Fuleihan; fourth, a black Mercedes with three private security guards; fifth, a black Mercedes with three private security guards; and sixth, a black Jeep (an ambulance) bringing up the rear with three private security guards. Three of the Mercedes were equipped with high-powered signal jamming devices (four gigahertz), which were operating at the time of the final journey. All of the vehicles were equipped with firearms and all of the security detail were trained.

25. The chosen route was communicated to the lead car only as Mr. Hariri was leaving the cafe. The convoy left Nejmeh Square and drove along Ahdab Street and on to Fosh Street. At the junction of Fosh Street and Seaport Street, the convoy turned left and took the coast road towards Ain M'reisa and the Hotel St Georges.

26. At exactly 1256:26 hours, Mr. Hariri's convoy was passing directly outside the Hotel St Georges, along a route that it had taken only six times in the preceding three months. A large explosion occurred and resulted in the death of Mr. Hariri, 7 of his security detail and 12 other civilians in the immediate vicinity. Mr. Hariri was brought to the American University Hospital where his body was identified by his personal physician and by the legal physician appointed by the Government. Identification was made possible by body marks, X-ray and dental records. The cause of death had been immediate brain injury resulting in cardiac arrest.

The explosion

27. The Mission examined, analysed and carried out tests at the scene of the explosion over a seven-day period. Its view on the nature and type of the explosion is based on its experts' interpretation of four main elements: (a) the dispersion, size and shape of fragments resulting from the explosion; (b) the size and shape of the crater created by the explosion; (c) ballistics interpretations; and (d) interpretations of the damage to the buildings in and around the area of the explosion.

28. The analysis of the fragments caused by the explosion and of the shape and form of the crater gives indicators equally supportive of hypotheses of a surface and a subterranean explosion. However, the analysis of the damage caused to the buildings in and around the crime scene suggests a surface explosion. The evidence of heat wash on several metal fragments is a clear indicator of a high-explosive charge; the fact that the Mission's experts found evidence of heat wash on fragments of vehicles and on fragments of metal shield holders placed in front of the Hotel St Georges supports the hypothesis of a surface explosion. Metal fragments found sticking in the sides of cars indicate the explosion of a heavy vehicle and the dispersion of such fragments in this direction.

29. Many of the indicators pointing to a subterranean explosion, such as the fragments of, inter alia, the road asphalt and manholes, found in upper floors of the Hotel St Georges, the impact on the vehicle roofs, and the damage to upper floors in the adjacent buildings, are not inconsistent with a surface large explosion.

30. After having conducted all the analyses and the discussions of the samples collected, the Mission's experts came to the conclusion that it had most likely been an explosion above ground, and that the explosive used was trinitrotoluene (TNT) having an approximate weight of 1,000 kilograms.

The crime scene

31. The crime scene was located at Ain M'reisa, City of Beirut, outside the Hotel St Georges. The immediate aftermath of the explosion was a scene of chaos, with multi-agency emergency services, media personnel and hundreds of passers-by and residents of Beirut arriving at the scene to help and observe. Removal of the deceased and injured began almost immediately. Much of the initial service was provided informally by persons who had arrived at the scene prior to the arrival of the emergency services.

32. In the immediate aftermath of the explosion, on 14 February, the investigation of the crime fell within the jurisdiction of the Military Court. Judge Rasheed Mezher of that Court undertook overall responsibility for the management and investigation of the crime, including crime scene management and preservation and collection of

evidence by the competent local authorities. As an act involving the security of the State, the case was referred to the Judicial Council in implementation of the relevant national legislation and on 21 February Judge Michel Abu Araj, Chief Judge of the Criminal Court, was appointed as the investigating Judge, replacing Judge Mezhar.

33. Failure to carry out the most fundamental tasks associated with this responsibility became evident from the very outset when the following was revealed:

(a) The body of a person recovered on 15 February 2005 was deemed to have survived for approximately 12 hours after the blast;

(b) A body was located by accident and recovered on 22 February 2005;

(c) A body was located by family members and recovered on 1 March 2005;

(d) One person has been reported missing and 15 believed to be still at the scene of the explosion.

Preservation of evidence

34. Preservation of evidence, while vital to the success of any investigation, is secondary to the preservation of life and to the recovery of bodies. In this case as in any major emergency, the preservation of the scene was not the primary focus of those emergency service personnel who arrived to render assistance. However, after the initial chaos and the removal of the dead and injured, the security services under the direction and control of the investigating Judge, Mr. Mezhar, should have cleared the area of people and prevented any other unauthorized access to the site. After a detailed search of the area had been completed to ensure that all the dead and injured had been recovered, the site should have been sufficiently secured to preserve all available evidence. The authorities in charge failed to do this.

35. The Mission also identified the following shortcomings:

(a) On 14 February 2005, shortly before midnight, the six vehicles forming Mr. Hariri's convoy and one BMW (not connected with the convoy) were removed from the scene of the explosion and taken to the Helou Police Barracks in the city of Beirut. Although the vehicles were covered after they had been removed, they were now absent from their respective resting places at the site of the explosion, thereby preventing any ballistic analysis, explosive analysis and evidence-gathering at the scene;

(b) Lebanese military, police and intelligence personnel, including explosives experts, interfered with and removed items of possible evidential value without properly documenting, reporting or collating their activities;

(c) Apart from the initial media access to the site in the immediate aftermath of the explosion, the media were given official access to the site on 15 February by Judge Mezhar after the scene had been secured by the security services;

(d) The seat of the explosion (the resulting crater) was flooded with water in the days following the explosion after the local authorities/Police had failed to prevent water from being turned on and released into the crater through the fractured pipes at the scene, thereby damaging or even eliminating vital evidence.

(e) Parts of a pickup truck were brought to the scene by members of the security services, some time after the incident, and were placed in the crater and subsequently photographed and labelled as evidence;

(f) Up until 6 March 2005, the Mission observed that there were large numbers of uniformed personnel and persons in civilian attire wandering around the scene, and that there was no record of persons entering or leaving the scene and no control over removal or placing of items/samples at the scene;

(g) At a meeting with the local investigation's senior management team on 8 March 2005, members of the Mission had requested a chronological report on items relating to the crime scene, namely, access by personnel, evidence gathered, exhibits taken, tests carried out and general crime scene management. On 15 March 2005, the Mission was informed that such a report did not exist and could not be provided;

(h) There is strong evidence to suggest that the investigating judges were not in control of the investigation;

(i) Intelligence/government agencies intruded on the site seemingly without judicial authority and subsequently failed to coordinate findings.

36. It is therefore the Mission's view that the crime scene was not properly managed or preserved and that, as a result, important evidence was either removed or destroyed without record. Those responsible for the mismanagement should be held accountable.

Broadcast on the Al-Jazeera television network

37. At approximately 1330 hours on 14 February 2005, the director and senior presenter at Al-Jazeera TV, Beirut, received a telephone call from a man whom he described as having spoken, poor Arabic or as having just pretended to speak poor Arabic. The caller stated that "the Nasra and Jihad Group in Greater Syria claims responsibility for the execution of the agent Rafik Hariri, in the name of the oppressed, the Nasra and the Jihad". Al-Jazeera broadcast this statement at approximately 1400 hours. At 1419:25 hours, another male person called Al-Jazeera TV and speaking in "very good Arabic" said that a tape could be found in a tree near the United Nations headquarters building in Beirut. A member of the Al-Jazeera staff was instructed to go to the location but the staff member failed to retrieve the videotape. A second Al-Jazeera staff member was sent to retrieve the videotape, resulting in the videotape being retrieved and subsequently handed to the director. At 1527:17 hours, a third call was made to Al-Jazeera TV at which time another male voice asked why the tape had not been broadcast. The director informed the caller that the tape could not be broadcast until a decision had been made at Al-Jazeera headquarters in Qatar. The caller, who was by this time shouting loudly threatened the director stating that he would regret not showing the tape. At 1704:35 hours, a final call was made to Al-Jazeera TV at which time the same male voice, very angry, asked the director whether the tape would be broadcast or not. The director put the caller on hold and it subsequently being determined that the decision had been made to broadcast the tape, the caller was then told that he should watch the television. The tape recording, which was broadcast by the Al-Jazeera network, showed a young bearded man claiming responsibility for the killing of Mr. Hariri on behalf of the Nasra and Jihad Group in Greater Syria. The person who

appeared on the recording has been identified as Ahmad Abu Adas, a resident of Beirut, age 22.

38. On the same date, 14 February 2005, at 1411:25 hours, a consultant with Reuters news agency received a call from a male caller whom she described as not having a Lebanese accent but "using a false Palestinian accent". She stated that the caller, who had been shouting in an authoritative voice, told her to "write down, write down and don't talk" and that "we are the Nasra and Jihad Group in Greater Syria, on this day have we given due punishment to the infidel Rafik Hariri so that he may be an example to others of his sort". On the instruction of an employee (Reuters), the contents of this call were not released because the call could not be authenticated.

39. Of the five calls made to Al-Jazeera and Reuters, the location/origin has been established for four. All locations identified by the police were public telephones in the city of Beirut. The placing of the videotape by a person or persons associated with the killing of Mr. Hariri provided the security forces with an important avenue of investigation. However, the investigation authorities did little to investigate this aspect. Closed circuit television (CCTV) in two critical locations established by members of the Mission was never investigated, witnesses working in the area identified by the Mission were not interviewed, and the most basic investigations were not carried out. Those responsible for this element of the investigation displayed gross negligence.

The suspect

40. Mr. Abu Adas, a male of Palestinian origin, was born in Jeddah (Saudi Arabia) on 29 August 1982 and came to Lebanon with his family in 1991. He is the son of Tayssir Abu Adas and Nehad Mousse Nafeh. He has two sisters, both living in Beirut, and one brother, who is currently residing in Germany. He was unemployed. Investigations show that at approximately 0700 hours, on 16 January 2005, Mr. Abu Adas left his home at Iskandarani Building 6, first floor, Arab University District, in the city of Beirut, and was officially reported missing on 19 January 2005.

41. Enquiries carried out by the Mission established that approximately three years before Mr. Abu Adas had changed from being a carefree teenager and became a religious fundamentalist. Approximately one month prior to being reported missing, Mr. Abu Adas had informed his family that he had met a new friend at the Al-Huri mosque, where he sometimes led the prayers. Information from the mother of Mr. Abu Adas suggested that at approximately 2100 hours on 15 January 2005, the "new friend" made a telephone call to the Abu Adas home and told Mr. Abu Adas that he would be calling for him at 0700 hours on 16 January saying that he had a surprise for Mr. Abu Adas. The mother claimed that at approximately 0700 hours on 16 January someone called for Mr. Abu Adas, alerting him by blowing on a car horn outside the apartment; she further stated that Mr. Abu Adas, who had already been up for prayer, called to ask her for some money and that he took only 2,000 Lebanese liras (approximately one dollar and 33 cents) and said that he would be only a few hours. She also stated that Mr. Abu Adas had asked her to apologize to another friend that he had made an appointment with on that date.

42. On 14 February 2005 the Abu Adas family were watching TV when Al-Jazeera broadcast the videotape showing Mr. Abu Adas claiming responsibility for the killing of Mr. Hariri on behalf of the group Nasra and Jihad in Greater Syria. Al

approximately 2030 hours, on 14 February, the father, mother and younger sister surrendered themselves to the police, at which time all three were arrested. The parents were detained for approximately seven days but the sister was released after the second day. The investigation of Mr. Abu Adas included the arrest and interviewing of the family, interviewing of friends, examination of telephone records, and a search of the home of his parents where he had also lived. Information from the investigation showed that Mr. Abu Adas had a computer at his home, which was seized as part of the investigation. The seized items included 11 videotapes, 55 CDs, 1 floppy disk and a computer hard drive. Other than subversive information/data allegedly found on the hard drive, there was very little indication that Mr. Abu Adas had subversive or violent tendencies.

43. The investigation into this aspect of the crime showed the following flaws:

(a) The officers leading the investigation assured the Mission that Mr. Abu Adas had Internet access from his home and that the information contained on the hard drive of the computer had been downloaded directly onto the computer at his home. Enquiries carried out by the Mission have established that Mr. Abu Adas did not have Internet access from his home and could not have accessed the suggested sites from his personal computer. Enquiries carried out by the Mission indicate that the investigating security forces did not canvass or carry out enquiries at local cybercafés with a view to determining the origin of the alleged data located on the computer of Mr. Abu Adas;

(b) There is little evidence to support the theory that Mr. Abu Adas had militant extremist tendencies;

(c) There is no evidence that Mr. Abu Adas had planned his departure or that he would not be returning, at the time that he left home on 14 January 2005;

(d) There is no intelligence available on the existence of the group Nusra and Jihad in Greater Syria before or after the explosion;

(e) This assassination would have required access to considerable finance, military precision in its execution and substantial logistic support and would have been beyond the capacity of any single individual or small terrorist group. There is no evidence suggesting that Mr. Abu Adas could have had the capacity to plan and execute this assassination on his own, nor did he have the financial capability.

The suspect vehicle

44. A branch of HSBC bank is located close to the scene of the explosion. The bank operates its own CCTV security system which recorded the movements of the Hariri convoy immediately prior to the explosion but did not record the events at the scene of the explosion itself. Copies of the recordings of this CCTV system were taken by a number of Lebanese security agencies soon after the investigation had been initiated. On close scrutiny, the recorded footage showed a white pickup truck entering the area of the explosion shortly before Mr. Hariri's convoy. The recording clearly showed that the white pickup truck had been moving approximately six times slower than all other vehicles surrounding the same stretch of roadway. A time-series analysis showed that, for the 50-60 metres of road covered by the camera, a normal car would take from three to four seconds to cover the distance, while a large truck would take from five to six seconds to cover the distance. The suspect white pickup truck took approximately 22 seconds to travel

the distance and entered the area of the explosion 1 minute and 49 seconds before the Hariri convoy. It is estimated that if the pickup truck had continued at the same speed it would have been exactly at the centre of the explosion approximately 1 minute and 9 seconds before the Hariri convoy. It is estimated that if the pickup truck had continued its journey at the same speed without stopping, it would still have been affected by the force of the blast and would most probably have remained at the scene after the explosion. In order to have avoided the explosion, this pickup truck would have had to speed up considerably, immediately after going out of view of the HSBC CCTV camera. There is no evidence to support this.

43. The Lebanese investigating officers have identified the existence of this pickup truck and its suspicious behaviour as an issue that gives rise to a main/critical avenue of investigation. They have identified the make and model of the suspect vehicle as a Mitsubishi Canter pickup truck (possibly a 1995-1996 model). The investigations carried out by the Lebanese security forces have focused predominantly on determining the actual ownership of the truck by attempting to trace its ownership history through vehicle licensing records, border controls and manufacturing or dealership records. During searches for evidence at the site of the explosion, the security forces allegedly discovered parts of a pickup truck that matched the suspect vehicle and that bore evidence of having been involved in an explosion. The police allegedly discovered in excess of 21 parts of this suspect vehicle in and around the area of the explosion. The main thrust of the security force investigation is focused on this one avenue of investigation. The Mission has determined that this truck, as viewed on the CCTV of the HSBC bank, actually existed and had been at the scene as stated, immediately before the explosion that claimed the life of Mr. Hariri. The Mission also accepts the theory of this truck having been involved in the assassination as a credible one, requiring full and extensive investigation. The Lebanese security forces have recovered small parts of a Mitsubishi truck from the crater, and from the surrounding area of the explosion. They have recovered parts of a Mitsubishi truck from the sea adjacent to the explosion. The Mission recovered a piece of metal from the crater resembling metal used in truck parts and bearing evidence that supports the theory of a surface overground explosion.

44. However, the investigation into this aspect of the case has not been full-fledged or extensive and, in the opinion of the Mission, has been critically and fundamentally damaged owing to the actions and inactions of the security forces on the ground, as follows:

(a) Up to approximately one month after the assassination, little or no attempt had been made by the security forces to determine the movements of this suspect truck immediately prior to or immediately after the explosion. This aspect of the investigation could have uncovered vital evidence including the possible identity of the perpetrator or perpetrators, where the truck was parked immediately before the explosion, and — of critical importance — whether the truck continued on its journey and had no involvement in the assassination at all;

(b) The Mission determined that little or no effort had been made to determine whether the suspect pickup truck continued its journey and that there was little or no effort made to locate CCTV footage or witnesses on the route after the explosion.

(c) The Mission can say with certainty that parts of a truck were brought to the scene of the explosion by a member of the security forces some time after the assassination and were placed in the crater and subsequently photographed in the crater by members of the security forces, thus creating serious suspicion and doubt about the actual involvement of this truck in the assassination and seriously damaging the credibility of the main line of investigation. This line of enquiry is now fundamentally damaged, entailing credibility issues and scope for legal challenge.

47. In sum, the manner in which this element of the investigation was carried out displays, at least, gross negligence, possibly accompanied by criminal actions for which those responsible should be made accountable.

General assessment of investigation

48. Apart from the deficiencies already indicated above, the Mission has noted the following flaws in the Lebanese investigation process:

(a) There was a serious disconnect between the senior members of the local security force investigation team;

(b) There was a lack of coordination between the security force investigation team and the investigating Judges;

(c) There was a lack of focus and control by the senior management responsible for the overall investigation of the crime;

(d) There was a lack of professionalism in the overall crime investigation techniques employed;

(e) There was a total absence of intelligence information and little or no exchange of information among the various agencies engaged in the investigation;

(f) There was an absence of both technical capability and equipment necessary for such an investigation.

49. Based on all of the above, it is the Mission's conclusion that there was a distinct lack of commitment to investigating the crime effectively, and that the investigation was not carried out in accordance with acceptable international standards. The Mission is also of the view that the local investigation has neither the capacity nor the commitment to succeed. It also lacks the confidence of the population necessary for its results to be accepted.

C. Consequences

50. The assassination of Mr. Hariri had an earthquake-like impact on Lebanon. Shock, disbelief, and anxiety were the most common reactions among the people with whom we spoke — shock at the thought that what many considered to have been practices of the past seemed to be coming back; disbelief at the murder of a man whom people regarded as a "larger than life" figure; and anxiety that Lebanon might be sliding back towards chaos and civil strife as a result of that "earthquake". These feelings quickly fused into a strong and unified outcry for "the truth". All those who talked to the Mission indicated that uncovering the truth about the assassination of Mr. Hariri had become their utmost priority and that peace and

tranquillity in Lebanon could not be restored without bringing this crime to an acceptable closure. Many reminded the Mission of previous political assassinations: either they had not been investigated properly or the investigations had not led to convincing results. All of our interlocutors emphasized that this assassination was one too many, that what they described as "the culture of intimidation and brutal use of force" had to come to an end, and that the Lebanese people and their political leaders deserved to live free from fear, intimidation and the risk of physical harm.

51. The families of the victims were understandably still in shock when the Mission met with them. Mr. Hariri's family still could not believe that a man who had devoted his life to the service of his country could be simply eliminated while the truth about his murder hung on an investigation whose credibility was very much in doubt. The families of the other victims — the guards, the workers at the scene, the passers-by, and all those who lost their lives accidentally — were unable to comprehend yet what had happened or why. For all these people the talk about the capabilities of the security services, and the coordination among them, or the political speculations of the populace only increased their pain. All they yearned for now was the truth, for a way to bring this to closure and to allow them to mourn their loved ones.

52. The families of the victims as well as political leaders from different political and communal backgrounds, including officials and members of the Government, have all indicated that the formation of an international and independent investigation commission is the only way to uncover the truth about the assassination of Mr. Hariri. Some of our interlocutors accused the Lebanese and Syrian security services of involvement in the assassination — of wilfully derailing the Lebanese investigation in order to cover up for the crime. Others, from the Government side, indicated that an international investigation would be needed specifically to prove the innocence of the Lebanese security services; but such a result could not be achieved without external help, given the diminished credibility of the Lebanese security services and investigators.

53. During our stay in Lebanon, ordinary people stopped us in the streets of Beirut and thanked us for our efforts to find the truth, urged us not to leave this matter unresolved, and reminded us of the importance of bringing the culprits to justice "for the sake of Lebanon". Posters in the streets of Beirut carry one word, in two languages: *the truth*, *al-haqiqa*. Politicians, officials in the Government at all levels, and even some security officials told us that finding the truth "this time" was crucial for restoring civil peace in the country, reducing the tension and allowing Lebanon to move towards normalcy.

54. In addition, the assassination of Mr. Hariri seems to have unlocked the gates of political upheavals that were simmering throughout the last year. Accusations and counter-accusations are rife and fuel a strongly polarized political debate. Some accuse the Syrian security services and leadership of assassinating Mr. Hariri because he became an insurmountable obstacle to their influence in Lebanon. They argue that his removal became necessary in order for the Syrian Arab Republic to retain control over the Lebanese political polity, especially if the Syrian Arab Republic was forced to withdraw its forces. The adherents of this theory affirm that the Syrian leadership would not mind being the "obvious suspect" and that it has used similar tactics in the past with little or no concern about leaving traces. According to these sources, this attitude is part of the Syrian Arab Republic's

pattern of coercive management of Lebanese affairs. Others claim that the Syrian leadership did not anticipate such strong reactions from the Lebanese people and the international community. In their view, the decision to eliminate Mr. Hariri was "a strategic miscalculation", not dissimilar to other miscalculations made by the Syrian Government.

55. Syrian supporters counter by claiming that Mr. Hariri was assassinated by "the enemies of Syria", those who wanted to exert international pressure on the Syrian leadership in order to accelerate the demise of Syrian influence in Lebanon and/or start a chain of reactions that would eventually force a "regime change" inside the Syrian Arab Republic itself. According to the adherents of this theory, the assassination of Mr. Hariri would have been too gross a mistake for the Syrian leadership to make. The Syrian Arab Republic would have been not only the obvious suspect, but also the obvious loser. Those who maintain this theory reminded the Mission that political assassinations are carried out not in revenge, but in order to lead to certain consequences. The consequences of Mr. Hariri's assassination are, in their view, obviously unfavourable to the Syrian Arab Republic.

56. The assassination quickly widened the gap between the Lebanese political factions and further polarized the political scene to a threatening level. Immediately after the assassination, the political spectrum was divided between "opposition" and "loyalty" camps, crystallizing around the position towards the current Lebanese Government/President and the existing Syrian/Lebanese relationship. Two weeks after the assassination, large numbers of Lebanese took to the streets to express a combination of grief, anger, anxiety and political opposition to the Syrian involvement in Lebanese affairs. The protesters and the opposition leaders accused the Lebanese and Syrian security services of involvement in the assassination and called for the Government to resign and for the Syrian troops and security assets to leave Lebanon. Although Prime Minister Karami had a majority in the Parliament and was confident of winning a confidence vote, he listened to the voice of the street and announced his Government's resignation while the demonstrators were still gathered not far from the Parliament.

57. The protestors and opposition leaders continued their campaign, calling for the dismissal of all the heads of security agencies, a Syrian withdrawal of its army and security assets, the formation of a "neutral" government that would focus on preparing the upcoming legislative elections, and the establishment of an independent international investigation. The loyalty quickly responded by taking to the streets on 8 March when at least half a million people demonstrated in support of the Government and of the Syrian Arab Republic. Immediately afterwards, the Syrian President declared his Government's intention of withdrawing its forces to the Beqa'a valley in implementation of the Taif Agreement of 1989, and as well as of undertaking further withdrawals up to the Syrian border. However, this announcement did not bring the debate over the Syrian presence to an end. Opposition leaders continued to show scepticism regarding Syrian intentions and required a timetable for the full pull-out, with some calling for its completion before the legislative elections.

58. On 14 March, according to available estimates, more than 1 million people gathered in the main square of Beirut and chanted for the "independence" of Lebanon, the creation of an independent international investigation commission, the removal of the heads of security agencies, and the formation of a neutral

government to prepare for the upcoming elections. Fears of a constitutional void were voiced to the Mission, as well as fears of the inability to vote in an electoral law in time or to prepare adequately for the May legislative elections. Many suggested that international supervision of the elections would be necessary to ensure their fairness. They pointed out that a credible election would contribute to stabilizing the political situation. There are also fears of civil strife, as the opposition and loyalty divide is worryingly loaded with intercommunal significance. These political upheavals carry threats to the peace and security of Lebanon, with obvious implications for stability in the region as a whole.

59. Moreover, Lebanese politicians from different backgrounds and allegiances expressed to the Mission their fears that Lebanon would become, once again, a battleground for external forces. Many pointed to the long and tragic civil war as an example of external powers struggling for power through Lebanese actors. They underlined the fragility of the Lebanese polity and its limited ability to sustain pressure. Many political figures emphasized their worry that Lebanon would be caught in a possible showdown between the Syrian Arab Republic and the international community, with possibly devastating consequences for Lebanese peace and security. Lebanese political leaders across the board implored the Mission to call upon the international community not to use Lebanon as a tool of pressure. As one interlocutor told the Mission: "The tool is too fragile, and would easily break."

III. Concluding remarks and recommendations

60. It is the Mission's view that the Lebanese security services and the Syrian Military Intelligence bear the primary responsibility for the lack of security, protection, and law and order in Lebanon. The Lebanese security services have demonstrated serious and systematic negligence in carrying out the duties usually performed by a professional national security apparatus. In doing so, they have severely failed to provide the citizens of Lebanon with an acceptable level of security and have therefore contributed to the propagation of a culture of intimidation and impunity. The Syrian Military Intelligence shares this responsibility to the extent of its involvement in running the security services in Lebanon.

61. Second, it is also the Mission's view that the Government of the Syrian Arab Republic bears primary responsibility for the political tension that preceded the assassination of former Prime Minister, Mr. Hariri. The Government of the Syrian Arab Republic clearly exerted influence that went beyond the reasonable exercise of cooperative or neighbourly relations. It interfered with the details of governance in Lebanon in a heavy-handed and inflexible manner that was the primary reason for the political polarization that ensued. Without prejudice to the results of the investigation, it is obvious that this atmosphere provided the backdrop for the assassination of Mr. Hariri.

62. Third, it became clear to the Mission that the Lebanese investigation process suffered from serious flaws. Whether caused by lack of capabilities or commitment, this process is unlikely to reach a satisfactory conclusion. In addition, the credibility of the Lebanese authorities handling the investigation has been questioned by a great number of Lebanese, in the opposition as well as in government. It is therefore

the Mission's view that an international independent investigation would be necessary to uncover the truth. To carry out such an investigation, there would be need for a self-sufficient team, comprising the different fields of expertise that are usually involved in carrying out similarly large investigations in national systems, with the necessary support staff and resources, and knowledge of the legal and other systems involved. Such a team would need an executive authority to carry out interrogations, searches and other relevant tasks. The team could be assisted and advised by Lebanese legal resources without prejudice to its independence. It is, however, more than doubtful that such an investigation team could carry out its tasks satisfactorily — and receive the necessary active cooperation from local authorities — while the current leadership of the Lebanese security services remains in office.

63. Fourth, it is the Mission's conclusion that the restoration of the integrity and credibility of the Lebanese security apparatus is of vital importance to the security and stability of the country. A sustained effort to restructure, reform and retrain the Lebanese security services will be necessary to achieve this end, and will certainly require assistance and active engagement on the part of the international community. Based on the Mission's review of the current set-up of the Lebanese security apparatus, six main areas have been identified as priorities for security reform: (a) decoupling security from politics and establishing a professional service; (b) nationalizing the security apparatus by disentangling it from external influence and by raising it above sectarianism; (c) establishing a democratic police service, with special attention to the rule of law and human rights; (d) establishing clear lines of reporting; (e) capacity-building; and (f) introducing clear mechanisms for accountability and judicial oversight.

64. Finally, it is also the Mission's view that international and regional political support will be necessary to safeguard Lebanon's national unity and to shield its fragile polity from unwarranted pressure. Improving the prospects for peace and security in the region would offer a more solid ground for restoring normalcy in Lebanon.

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